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PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Report of the Working Group on Minorities on its fifth session

(Geneva, 25-31 May 1999)

Chairman-Rapporteur: Mr. Asbjørn Eide

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Introduction

1. The creation of the Working Group on Minorities was recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/4 of 19 August 1994, authorized by the Commission on Human Rights in its resolution 1995/24 of 3 March 1995, and endorsed by the Economic and Social Council in its resolution 1995/31 of 25 July 1995. By decision 1998/246 of 30 July 1998, the Economic and Social Council extended the mandate of the Working Group with a view to its holding one session of five working days annually.

2. In accordance with its mandate, the Working Group has been entrusted to:

(a) Review the promotion and practical realization of the Declaration;

(b) Examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

(c) Recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

3. In compliance with the above-mentioned resolutions, the Working Group held nine public meetings from 25 to 31 May 1999, and one closed meeting on 31 May.

I. ORGANIZATION OF THE SESSION

A. Election of officers

4. At its third session, the Working Group re-elected Mr. Asbjørn Eide as Chairman-Rapporteur for a further two-year term.

B. Attendance

5. The session was attended by the following independent experts of the Sub-Commission as decided by the Sub-Commission at its forty-seventh session (decision 1995/119) and at its forty-ninth session (decision 1997/111): Mr. Miguel Alfonso Martínez (Mr. José Bengoa's alternate), Mr. Asbjørn Eide, Mr. Vladimir Kartashkin, Mr. Mustapha Mehedi and Ms. Deepika Udagama (Mr. Soli Sorabjee's designated alternate).

6. The following States Members of the United Nations were represented by observers: Albania, Armenia, Austria, Azerbaijan, Bahrain, Brazil, China, Colombia, Cuba, Czech Republic, Estonia, Ethiopia, Finland, Germany, Hungary, India, Indonesia, Iraq, Japan, Latvia, Lithuania, Malaysia, Netherlands, Norway, Pakistan, Philippines, Poland, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Syrian Arab Republic, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland and Uruguay.

7. The following non-member States were represented by observers: Switzerland.

8. The following United Nations bodies and specialized agencies and intergovernmental organizations were represented at the session: United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, International Labour Organization, World Health Organization.

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

General consultative status

International Association for Religious Freedom

Special consultative status

Baha'i International Community, Canadian Human Rights Foundation, Caritas Internationalis, Federal Union of European Nationalities, Fraternité Notre Dame, Indian Movement "Tupaj Amaru", International Association against Torture, International Centre for Ethnic Studies, International Council of Jewish Women, Interfaith International, International Federation of Human Rights Leagues, International Organization for the Elimination of All Forms of Racial Discrimination, International Service for Human Rights, National Society for Human Rights and World Muslim Congress.

Roster

Association of World Citizens, Caucasians United for Reparations and Emancipation, Minority Rights Group, International Human Rights Association of American Minorities, International Movement against All Forms of Discrimination and Racism and Soka Gakkai International.

10. The following other non-governmental organizations were represented by observers: Adalah-Legal Center for Arab Minority Rights in Israel, African Americans in the United States of America, African Bureau of Educational Sciences, African Indigenous and Minority Peoples Organization, Ahmadiyya Muslim Association, American Friends Service Committee, Arab Association for Human Rights, Association culturelle berbere, Association of Jehovah's Witnesses, Association of Western Thrace Minority Graduates, Assyrian Universal Alliance, Bahrain Human Rights Organization, Black Reparations Commission, Canadian-Egyptian Organization for Human Rights, Centre for the Advancement of Women, Centre for the Coordination of Non-Governmental Tribal Development Organizations, Centre for Documentation and Information in Europe, Centre for Human, Civil and Autonomous Rights, Centre for International and Comparative Law, Centre for the Protection of Minorities and Against Racism and Discrimination in Bhutan, Centro de Derechos Humanos, Ciudadanos y Autonómicos, Christian Solidarity Worldwide, Delhi Forum-Banjara People, Democratic Alliance of Hungarians in Romania, Droit des minorités indigènes au Cameroon, Espacio Afroamericano, European Association of Jehovah's Witnesses for the Protection of Religious Freedom, European Centre for Minority Issues, Fafan Development Organization, Ford Foundation, High Commissioner Consultant for Minority Groups in San Andreas, Human Rights

Alliance, Human Rights Commission of Northern Ireland, Human Rights Committee-World Wide Ahmadiyya Muslim Community, Human Rights Defence Group, Indo-American Kashmir Forum, Indo-Canadian Kashmir Forum, Indo-European Kashmir Forum, Jehovah's Witnesses in Russia, Kurdish Human Rights Project, Kurdish Reconstruction Organization, Legal Centre for Arab Minority in Israel, Legal Information Centre for Human Rights, Ligua Pro Europa, Macedonian Human Rights Movement in Greece, Macedonian Human Rights Movement of Canada, Mécs Laszlo Association, Mejlis of the Crimean Tatar People, Million Youth March Organisation, Minelres, Movement for the Survival of the Ogoni People, National Commission for Minorities, National Commission for Reparations, N'COBRA-The National Coalition of Blacks for Reparations in America, National Movement for the Human Rights of the Afro-Colombian Communities-Cimarron, National Society for Human Rights of Namibia, Pan African International Nationalist Movement, Proceso de Comunidades Negras de Colombia, Rescue Ethiopian Pastoralists, Research and Support of the Indigenous Peoples of the Crimea Foundation, Romani Centre for Social Intervention and Study, Romanian Institute for Human Rights, Sikh Human Rights Group, Solai Program, Southern Cameroon Peoples' Conference, Summer Institute of Linguistics, Swiss Federal Commission against Racism, Uganda Land Alliance, Universal Defender of Democracy, Unrepresented Nations and Peoples Organisation, Vedika-National Campaign on Dalit Human Rights, Western Thrace Turkish Muslim Minority in Greece, World Federation of Hungarians and Zentralrat Deutscher Roma und Sinti.

11. The following scholars participated in the meetings of the Working Group: Ms. Sophie Albert (University of Paris), Ms. Monica Castelo (University of California), Ms. Jane Cowan (University of Sussex), Ms. Elizabeth Craig (Queen's University of Belfast), Mr. Gyula Csurgai (Geneva Peace Research Institute), Mr. Edward Chaszar (University of Pennsylvania), Ms. María Amor Martín Estebañez (University of Oxford), Mr. Markus Fritzschen (University of Zurich), Mr. Geoff Gilbert (University of Essex), Ms. Marie-Hélène Giroux (University of Québec in Montreal), Ms. Nadja Goetz (University of Ljubljana), Ms. Christine Gosden (University of Liverpool), Mr. Stephan Grigolli (University of Cologne), Ms. Sara Gustafsson (Raoul Wallenberg Institute, University of Lund), Mr. Hurst Hannum (Tufts University), Ms. Christiane Hoehn (Max Planck Institute for International Law), Ms. Irena Ilesic (University of Ljubljana), Ms. Verena Klemenc (University of Ljubljana), Mr. Silis Muhammad, Mr. Javaid Rehman (University of Leeds), Mr. Thomas V. Simon (University of Ljubljana), Ms. Jane Sugarman (Weslyan University), Ms. Li-Ann Thio (University of Cambridge), and Mr. Zhou Yong (Norwegian Institute of Human Rights).

C. Documentation

12. The documents before the Working Group are listed in the annex. Two working papers were not submitted, namely, document E/CN.4/Sub.2/AC.5/1999/WP.2 on the existence and recognition of minorities and document E/CN.4/Sub.2/AC.5/1999/WP.7 on conflict prevention in situations involving minorities. All the other working papers which were submitted are available from the secretariat.

D. Organization of work

13. At its 1st meeting, on 25 May 1999, the Working Group adopted the following agenda:

1. Adoption of the agenda.

2. Organization of work.

3. (a) Reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

   (b) Examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

   (c) Recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

4. The future role of the Working Group.

5. Other matters.

14. In his opening statement, the representative of the Office of the High Commissioner for Human Rights recalled that human rights violations were both a determinant and a result of today's conflicts. The vast majority of them involved one or more minority groups, and the violations which had led to tensions and conflicts were all too often violations of minority-specific rights. The High Commissioner had challenged the international community to seek ways to prevent the tragic violations which led to conflict, and in this respect the Working Group, which was the first and only mechanism which had a mandate to specifically address issues involving minorities, had an important contribution to make. The representative of the Office called on the members and participants to share experiences and exchange ideas with a view to finding new avenues for promoting greater tolerance and understanding and arriving at ways in which minority problems could be solved and, more generally, contributing to the respect for and protection of the rights of minorities.

15. The Chairman-Rapporteur, in his statement, thanked the members for being present and for the working papers they had prepared. He also thanked the two alternate members for having joined at very short notice and the organizations that had contributed additional working papers and had held a seminar on the effective participation of minorities. He reviewed the activities and achievements of the Working Group during its first four sessions and identified specific areas of focus for the present session, including information on best practices concerning the implementation of the Declaration and the needs for a constructive dialogue between minorities and Governments and for the improvement of working methods regarding thematic issues affecting minorities. He added that more work could be undertaken between the sessions on specific themes and that the specialized agencies could focus on how they

could best assist minorities and Governments to solve particular types of problems within their respective fields of competence. Finally, he highlighted the need to improve procedures to facilitate the debate and focus on particular issues of interest.

II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

A. Introductory remarks

16. The observer for the International Centre for Ethnic Studies said that the Working Group was meeting under the dark shadow of terrible events which placed one of the most fundamental values of the Declaration and the very foundation of the work of the Working Group in jeopardy. It was important to bear those events in mind during the discussions. He referred to important developments including the increasing role of national and regional institutions in protecting minorities, and to advances in international law such as the adoption of the Statute of the International Criminal Court which criminalizes violations of minority rights and, as such, reflects the recognition of the international community of the fundamental rights of minorities.

17. The observer for the Minority Rights Group said that through its mandate to review the promotion and practical realization of the Declaration as well as to examine possible solutions to problems involving minorities and recommending further measures, the Working Group could act as an instrument of early warning and as a framework for conflict management. In the light of the situation in the former Yugoslavia, the role of the Working Group could be of vital importance in negotiating issues involving minorities.

Commentary to the Declaration

18. Mr. Eide referred the working paper which he had prepared for the Working Group at its last session containing the Commentary to the Declaration (E/CN.4/Sub.2/AC.5/1998/WP.1) and to the observations received thereon from Governments, specialized agencies, non-governmental organizations and experts, as reflected in the working paper prepared by the secretariat for the present session (E/CN.4/Sub.2/AC.5/1999/WP.1).

19. The observer for Switzerland and Mr. Gilbert suggested that the Commentary should indicate why, in the title of the Declaration, the new category of "national" minorities had been added and what was to be understood by the term, as it was possible to infer that the title distinguished between, on the one hand, national minorities and, on the other, ethnic, religious and linguistic minorities. Mr. Eide and the observer for the Federal Union of European Nationalities suggested that a national minority was a minority in one country but which formed the majority in the mother country. Mr. Alfonso Martínez added that a national minority might mean a particular group which had always been part of a nation but, owing to changing borders, had found themselves in a minority situation. Such national minorities were present in Europe, Africa and Asia where borders had been redrawn either as a result of peace treaties or of colonialism. The observer for the Centre for

Documentation and Information in Europe highlighted that the definition of a national minority was complex and depended on a variety of factors such as historical existence and linguistic, cultural and religious characteristics. Mr. Kartashkin added that the existence of a minority did not depend on recognition by the State but was defined by objective circumstances. The observers for the International Centre for Ethnic Studies and for Austria and Mr. Gilbert said that there was no specific need to categorize or define minorities in order to progress in the field of minority protection.

20. The observer for Pakistan pointed to the comments made in the Commentary to the right to self-determination, which was not mentioned in the Declaration. The observer argued that in discussing self-determination, the specific origin of the situation should be taken into account. Mr. Kide stated that the right to self-determination, although important, was beyond the scope of the mandate of the Working Group since it was not covered by the Declaration and since article 8 made it clear that nothing in the Declaration could be construed as permitting any activity against the territorial integrity of the State.

21. The observer for the Summer Institute of Linguistics drew the attention of the Working Group to situations outside Europe where countries are composed of a large number of minorities which never make up a majority. It was therefore difficult to grant minority rights to all these groups. The observers for the Human Rights Defence Group and the Ford Foundation noted that particular attention should be paid to Africa and how the conditions in many African countries affected the promotion and protection of minority rights. The latter added that the role of the State in granting or denying minority rights was very important and that in the context of Africa, it was useful to focus not merely on the legislation per se, but also on the processes that produced the institutions which elaborated and adopted legislation, as minority rights were closely linked to governance.

22. Ms. Udagama suggested that in addition to the three requirements mentioned at article 1, the question of non-destruction be included. At article 4.1, she proposed that emphasis be placed on the enjoyment of human rights by all members of the community, both minorities and majorities, and that the concept of affirmative action be further highlighted. She also suggested that the Working Group might wish to consider reviewing the Declaration article by article. Mr. Alfonso Martinez stressed the importance of ensuring that the cultures and languages of minorities was accessible to the majorities as a means to encourage interaction and conflict prevention in pluri-ethnic societies.

23. The observer for the International Centre for Ethnic Studies suggested that article 1 of the Commentary be further elaborated and in respect of article 2, note should be taken of the diverse forms of political participation in multi-ethnic societies. Mr. Gilbert added that greater attention should be given to the normative components of the Declaration as well as the ways by which the principles could be incorporated into domestic legislation. The observer for Switzerland stated that at article 1, the term "non-exclusion" was inadequate to define the recognition and identity of a minority and suggested adding the words "special measures" which facilitated the maintenance and further development of the identity of minorities.

24. The observer for the United Kingdom of Great Britain and Northern Ireland suggested replacing the second paragraph under article 2.1 with the following text: "It is not enough that the State abstains from interference or discrimination, it must also take appropriate measures against interference or discrimination by private parties and organizations." At the second paragraph under article 4.3, he suggested that consideration be given to the resources of the State and to the numerical size of the minority when considering measures to be taken to ensure that minorities had the right to learn their mother tongue. The observer for Austria stressed the need to refer to "persons belonging to minorities" rather than "members" of minorities. In article 3.1 the use of the notion "collective" had been equated to the Declaration's term "individually as well as in community with others". Since there was a difference between the two terms, he suggested that a relevant explanation be provided.

25. The observer for Switzerland suggested that the Working Group adopt the draft Commentary at its sixth session now that the views and comments of Governments, agencies, non-governmental organizations and experts had been discussed and included in the text, as appropriate. Mr. Eide agreed.

B. At the national level

1. Constitutional and main legal provisions protecting the existence and identity of minorities (art. 1.1 of the Declaration)

26. The observer for Iraq noted that a number of constitutional provisions protected minorities and made specific reference to law 35 governing the region of Iraqi Kurdistan and to a law relating to the protection of the cultural rights of minorities. The Syrian and Christian minorities had the right to profess and practise their religions. The observer for the Russian Federation stated that the law on national and cultural autonomy guaranteed the rights of national minorities in his country, within the context of national self-determination.

27. Observers representing minority groups described many situations in which the existence and identity of the minority concerned were allegedly not adequately protected. These included the Batwa, Bagogwe, Bayambo and Albino minorities in Rwanda (African Indigenous and Minority Peoples Organization); the Crimean Tatars in Ukraine as the State programme assisting their return and resettlement was being reduced (Mejlis of the Crimean Tatar People); the Kurdish minority in Iraq, the Islamic Republic of Iran, the Syrian Arab Republic, Turkey and the former Soviet Union whose cultural and historical identity was being destroyed (Human Rights Alliance); the Turkish Muslim minority in Greece (Association of Western Thrace Minority Graduates); the Macedonian minority in Bulgaria and Greece whose existence was systematically denied (Macedonian Human Rights Movement in Greece and the Macedonian Human Rights Movement of Canada); the Lhotshampa minority in Bhutan who were forced to flee to refugee camps in Nepal and India (Centre for the Protection of Minorities and Against Racism and Discrimination in Bhutan); the Arab minority in Israel whose members were driven from their homes as part of the Israeli policy of expanding Jewish towns (Adalah - Legal Center for Arab Minority

Rights in Israel); the Dalits in India where the Government had failed to implement the laws preventing discrimination and social exclusion of the Dalit people (Vedika-National Campaign on Dalit Human Rights).

2. The rights of persons belonging to minorities, individually or in community with other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language, in private and in public (art. 2.1 and art. 3)

28. The observer for the Ahmadiyya Muslim Association mentioned that Governments as well as minorities did not always understand the provisions contained in the Declaration, in particular with respect to the right of minorities to profess and practise their own religion. A mechanism was needed to make Governments honour their commitments and observe the principles contained in the Declaration with a view to developing a harmonious society in which minorities could enjoy their fundamental rights and freedoms.

29. Reference was made to minorities whose right to profess and practise their own religion was curtailed. The following situations were described: the persecution of the Ahmadis in Pakistan on the grounds of un-Islamic activities, blasphemy, and even calling themselves Muslims (Ahmadiyya Muslim Association); the increasing communalism in India which was threatening the basic secular credentials as well as the right to freedom of religion and created a sense of insecurity among Christians (Solai Program); the climate of intolerance and discrimination in several European countries where religious minorities were assimilated to sectarian movements (European Association of Jehovah's Witnesses for the Protection of Religious Freedom); the denial of the existence and the religious rights of the Turkish Muslim minority in Western Thrace (Western Thrace Turkish Muslim Minority in Greece); the denial of the right to respect and tolerance to religious minorities (Fraternité Notre Dame); discrimination against religious minorities by the financing of a few religious confessions by States (International Association for Religious Freedom); religious discrimination against the Coptic minority in Egypt owing to the fact that Islamic law was considered the principal source of legislation (Canadian-Egyptian Organization for Human Rights).

3. Effective participation by members of minorities, individually or in community with others, including in cultural, religious, social, economic and public life and in decisions at the national and regional levels concerning the minority to which they belong or the regions in which they live (art. 2.3)

30. The observer for the European Centre for Minority Issues (ECMI) presented the working paper entitled "Towards effective participation of minorities" (E/CN.4/Sub.2/AC.5/1999/WP.4), which contained the proposals of an expert seminar organized by ECMI in Flensburg, Germany, from 30 April to 2 May 1999. The seminar was organized following a recommendation by the Working Group at its last session to hold regional seminars on themes of particular concern, as a means to arrive at concrete proposals on ways in which Governments could give effect to, inter alia, articles 2.2 and 2.3 of the Declaration. The proposals took into account the needs and aspirations of different types of minority groups and focused in particular on:
representation in legislative, administrative and advisory bodies;

citizenship issues and electoral rights; participation at decision-making levels; further conditions for participation; the participation of the Roma minority in particular.

31. Mr. Kartashkin asked for clarification about the proposal contained in paragraph 17 of the paper that forms of participation for non-citizens should be developed such as local voting rights, inclusion of elected non-citizen observers in municipal and regional bodies and in the national parliament. Ms. Udagama drew the attention of the Working Group to the fact that in many countries the participation of minorities was hampered by the lack of free and fair elections, which prevented many groups in society from effectively participating. In that regard, she suggested that political parties be called upon to nominate an adequate percentage of minority candidates. The observer for Austria suggested adding a reference to the participation of minorities through associations and political parties and explained that, in Austria, ethnic advisory councils had been established to advise Government on ethnic matters. The observer for Switzerland encouraged the universalization of regional documents such as the Hague Recommendations regarding the Education Rights of National Minorities. The observer for Romania added that the problem of effective participation of political organizations of national minorities, and the recognition of minority representatives in public affairs, should be included in the final document as an element of international preventive policy. The observer for Hungary stressed that the effective participation of minorities in decision-making processes and decentralization led to a peaceful multicultural State.

32. The observer for China stated that minorities in China participated in the management of the State at regional and local levels and that senior positions were held by local members of ethnic minorities. The observer for the Russian Federation mentioned that a decision had recently been taken to establish a national council as part of the Peoples' Assembly to ensure dialogue between national and local authorities. The preservation of traditions of minority groups was ensured by the myriad of cultural groups and associations which had been established. In addition, minorities participate in shaping educational policies through curriculum development. The observer for Iraq stated that the participation of the Kurdish and Christian minorities in public life was guaranteed by the recognition of the Kurdish language, their participation in their own executive committees and cultural organizations, the right to speak their own language and the right to have their own radio stations and publications.

33. Observers presented examples of cases where, in their opinion, persons belonging to minorities had been unable to participate effectively in cultural, religious, social, economic and public life and where their participation in decision-making at the national and regional levels was limited, namely: the Kxoe, San, Bondelswarts, Nama, Ovazemba, Ovahimba, Okuvare and Herero minorities in Namibia which lacked the recognition of their traditional leaders in the official Council of Leaders, thereby curtailing their participation in the political decisions of the country and in decision-making processes (National Society for Human Rights of Namibia); the Crimean Tatars of Ukraine for whom Ukrainian laws did not provide effective

citizens by naturalization. Mr. Mehedi suggested also adding the criterion of merit whereby those who have rendered exceptional services to the nation are also granted citizenship.

37. The observer for Austria stated that minority rights were closely linked to citizenship and it was easier to grant additional rights to minorities if they were citizens of the State. The observer for Switzerland suggested that the working paper be enriched by including some of the relevant proposals made in the working paper on effective participation. In general, Swiss citizens enjoyed the same rights as non-citizens; however, only citizens could claim minority status. The observer for the Russian Federation expressed concern at the slow pace of the naturalization process in the Baltic States and reiterated that fundamental minority rights should be extended to non-citizens. Ms. Martín Estebañez referred to the comment in the working paper that States ratifying the Framework Convention on National Minorities of the Council of Europe could limit the scope of its application to the citizens of the State; the Convention establishes no specific requirement of citizenship for the enjoyment of the rights which may derive from it. In addition, international legal instruments normally grant rights to all persons on the territory or under the jurisdiction of the State, not only citizens.

38. The observer for the Office of the United Nations High Commissioner for Refugees (UNHCR) explained that UNHCR had a specific role to play under the 1961 Convention on the Reduction of Statelessness which entailed: the provision of technical and advisory services on nationality law and practice; cooperation with other concerned organizations and bodies such as the Working Group; the training of staff and of government officials on methods of addressing existing or potential cases of statelessness and the avoidance of statelessness; and the promotion of a deeper understanding of the relevant international instruments. UNHCR had placed special emphasis on problems relating to State succession and to the prevention of discrimination in the field of nationality. She recommended that the Working Group incorporate, where appropriate, relevant aspects of the 1954 and 1961 conventions which provided a legal framework for negotiations towards the resolution of issues of nationality when they arose.

39. A number of examples were provided of persons belonging to minorities who were allegedly denied citizenship and therefore also the enjoyment of certain fundamental rights. These included: the Kurdish minority in the Syrian Arab Republic who were denied citizenship and thus faced widespread discrimination (Kurdish Human Rights Project); the Turkish minority in Greece who were arbitrarily deprived of Greek citizenship (Association of Western Thrace Minority Graduates); the Korean minority in Japan who were denied re-entry permits, thus curtailing their right to travel and to livelihood (International Movement against All Forms of Discrimination and Racism); the Lahu, Lisu and Ahaka tribal communities in Thailand who did not have Thai citizenship, and therefore no identity cards, travel documents or right to vote (Centre for the Coordination of Non-Governmental Tribal Development Organizations); the Banjara Gypsies of Rajasthan, India, who had settled down but who were denied citizenship (Delhi Forum-Banjara People); the pygmy and Mbororo minorities in Cameroon whose citizenship rights were curtailed (Droits des minorités indigènes au Cameroun).

4. The right of persons belonging to minorities to learn their mother tongue and have instruction in their mother tongue (art. 4.3)

40. The observer for the Summer Institute of Linguistics expressed concern about groups who were marginalized owing to the fact that they spoke languages with little or no written tradition, leading to a lack of opportunity to participate fully in structures of governance within major social institutions such as education, administration and the justice system. Governments had the responsibility to create space for minorities to express themselves freely and to develop their linguistic and cultural resources for the purposes of education, development, communication and artistic creativity.

41. With regard to restrictions on the right of persons belonging to minorities to learn and have instruction in their mother tongue, reference was made to: the Chango-Hungarian minority living in Romanian Moldavia who were losing their mother tongue owing to an aggressive assimilation policy (World Federation of Hungarians); the Hungarian minority in Slovakia whose right to the use of their language was restricted (Mecs Laszlo Association); the anglophone southern Cameroonians who were facing educational marginalization through French-language acculturation (Human Rights Defence Group); the Hungarian minority in the former Yugoslavia who could not freely learn and have instruction in their own language (Federal Union of European Nationalities).

5. The value and content of intercultural education in providing persons belonging to minorities with adequate opportunities to gain knowledge of the society as a whole

42. Mr. Mehedi presented his working paper entitled "Multicultural and intercultural education and protection of minorities" (E/CN.4/Sub.2/AC.5/1999/WP.5). In the paper, he clarified the concept of international and multicultural education with particular reference to minorities and highlighted the right of persons belonging to minorities to education and intercultural education in the context of the Declaration. He pointed in particular to the role of education in preserving the culture of minorities and the types of intercultural education which could be identified. He concluded by affirming that intercultural education must have two facets: on the one hand, the preservation of collective identity accompanied by acceptance of diversity as an asset; and, on the other, a universal education which promoted understanding and tolerance.

43. Mr. Kartashkin reaffirmed the importance of intercultural and multicultural education in protecting minorities. Such education, he said, was indispensable in guaranteeing unity in society and for achieving consensus among persons belonging to different cultures and religions. He also reiterated the crucial role education played in promoting non-discrimination and equality between minorities and majorities. Mr. Alfonso Martínez stated that education was a fundamental element in the resolution of tensions and the prevention of conflicts. It was therefore important to generate an understanding of all cultures in society. He stressed the need for States to take measures to encourage knowledge of the history, traditions, languages and cultures of minorities. The observer for Switzerland said that multicultural education implied a situation in which several cultures did not necessarily

communicate with each other, while intercultural education reflected interaction and ongoing dialogue between groups. The observer for Hungary suggested that research in this area be continued and that the importance of the teaching of history and knowledge of all groups within society be stressed.

44. Observers referred to situations where, in their opinion, minorities were not provided with adequate opportunities to gain knowledge of society. One such situation was in Romania where knowledge of the history, traditions, language and culture of the Hungarian minority was not encouraged (Liga Pro Europa).

C. At the bilateral and regional levels

45. Mr. Kartashkin presented his working paper entitled "Universal and regional mechanisms for minority protection" (E/CN.4/Sub.2/AC.5/1999/WP.5). He provided an overview of the protection of persons belonging to minorities within the United Nations, mentioning specifically the Charter and the competent United Nations organs and bodies. The protection of minority rights was also discussed in the treaty bodies such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child. Mr. Kartashkin also referred to the Statute of the International Criminal Court which had jurisdiction over crimes of genocide, crimes against humanity and war crimes, including over criminal violations of the rights of minorities. Regional mechanisms for the protection of minorities included the Council of Europe, the Organization for Security and Cooperation in Europe and the Commonwealth of Independent States. No reference was made to the role of regional organizations in Latin America and Africa as the relevant regional instruments did not contain special provisions for minorities. In his recommendations to the Working Group, Mr. Kartashkin suggested, inter alia, that: a database be set up containing information on the special procedures and treaty bodies; global and regional organizations as well as treaty bodies and specialized agencies should be called upon to submit annual reports on action undertaken to protect minorities; that a definition of the concept "minorities" be discussed; that consideration be given to the elaboration of a convention on the protection of persons belonging to minorities; and that the Working Group organize a seminar for representatives of global and regional organs, treaty bodies and specialized agencies to discuss issues pertaining to minority protection.

46. Ms. Udagama took strong exception to the recommendation that a definition of the concept of "minority" be elaborated. She emphasized that it was better to have a few effective regional mechanisms rather than too many; those should be reinforced and their links with civil society strengthened. A mechanism which could serve as an early warning system could contribute to conflict resolution, together with the strengthening of national institutions, including human rights commissions. Ms. Martín Estebañez said that while the OSCE might lack a constitutive charter, the willingness of its members to take concrete and operational approaches to security had allowed the development of standards, bodies and institutions which provided effective and stable responses to minority questions in Europe. Mr. Grigolli added that reference

to the activities of the European Parliament in protecting minorities should be reflected in the paper. Ms. Höhn proposed that it would be useful to study which successful approaches and activities of regional organizations could be taken up by the Working Group, including the activities of the High Commissioner on National Minorities, as a means to learn from positive experiences.

D. At the global level

The role of the United Nations High Commissioner for Human Rights

47. The High Commissioner welcomed the opportunity to address the Working Group and discuss the ways by which the Declaration could be implemented and the principles contained therein given greater effect. The High Commissioner stressed that the Working Group was a vital tool in contributing to the respect of minority rights, especially with regard to the crucial need to focus on the prevention of conflicts. As for the implementation of norms and standards, the High Commissioner pointed to the benefits which could derive from focusing on the regional and subregional levels, in order to bring together countries with similar problems and issues of concern and to seek solutions which were tailored to particular regional circumstances.

48. A number of members and participants took the floor to share with the High Commissioner activities they had undertaken in the field of minority protection, raise issues of concern or ask questions. The Minority Rights Group described the training seminars for minority representatives which were held each year before the session of the Working Group in order to develop the knowledge and skills of minorities at the grass-roots level. Mr. Alfonso Martínez welcomed the emphasis on prevention and post-conflict reconstruction at the regional level, the need to ensure that international obligations were effectively applied and the important role played by NGOs in the protection of minority rights. Mr. Mehedi stressed that prevention could not be achieved without respect for the right to education with a view to increasing awareness of minority rights in general, and the Declaration in particular.

49. Ms. Udagama asked about the type of technical assistance which could be provided to minorities in terms of dissemination, training and institutional development. The observer for the Centre for International and Comparative Law questioned whether the right to integration of various minority groups was sufficiently covered by international instruments, including the Declaration. Mr. Kartashkin wondered whether the Working Group could be given additional functions and powers to effectively address conflict prevention. The observer for Switzerland drew attention to the Commentary to the Declaration and queried what measures could be taken to increase participation by States in the Working Group, and how States could contribute financially to ensure wider participation by minority groups. The observer for the African Indigenous and Minority Peoples Organization asked whether facilities would be extended to encourage the participation of those minority groups who could not afford the costs of travel and accommodation in Geneva. Mr. Zhou Yong wondered how autonomy arrangements similar to those established in China could ensure better protection of minorities and contribute to solving ethnic conflicts.

51. The observer for the Arab Foundation expressed concern at the under-representation of Africa in international forums, including the Working Group, and the need to reflect the African perspective in minority protection. The observer for Iraq stressed that account needed to be taken of the economic, political and social aspects of the countries in which minorities lived and raised concern at the lack of reliable and accurate information on minorities. The observers for the Fafan Development Organization (Ethiopia), the National Society for Human Rights of Namibia, the Centre for Human, Civil and Autonomous Rights (Bhurayqua) and Vedika National Campaign on Dalit Human Rights (India) drew the attention of the High Commissioner to the situation of minorities in their respective countries.

53. The High Commissioner agreed that it was necessary to explore the possibilities of technical assistance for the implementation of the Declaration, and in this connection expressed support for the establishment of an international database on minorities. She stressed the importance of effective links with civil society both with respect to strengthening minority protection in Africa specifically, with reference to which activities undertaken by her Office were ongoing, and with regard to the implementation of the right to education. The High Commissioner referred to the resolution adopted by the Commission on Human Rights at its 1999 session in which she had been requested to seek voluntary contributions to encourage the effective participation of minority representatives in the Working Group. In that connection, she suggested that a group of "like-minded" States might wish to establish an informal group to discuss the possible modalities of such contributions. With respect to the questions relating to integration and autonomy arrangements, the High Commissioner mentioned that these may be of value for the protection of minority rights but much depended on the specific situations involving minorities.

The role of United Nations bodies and specialized agencies

52. The observer for the International Labour Organization (ILO) mentioned the three bases for ILO action on the protection of minorities, namely: the international labour standards and their supervision, technical assistance and the ILO Declaration on Fundamental Principles and Rights at Work. He drew attention to the international labour standards which were of particular relevance to non-discrimination and the protection of minorities. These included Convention Nos. 111 on non-discrimination, 29 and 105 on forced labour and 169 on indigenous and tribal peoples. Technical assistance was provided by the ILO in the area of employment and work and the ratification of ILO conventions. Finally, the ILO Declaration on Fundamental Principles and Rights at Work covered the right to freedom of association, the elimination of forced and compulsory labour, the effective abolition of child labour, and the elimination of discrimination with respect to employment and occupation. The ILO examined, on the basis of a global report, each of the four subjects and also provided technical assistance in the four areas.

53. The observer for UNHCR said that much of their work centred on the provision of assistance to States in the preparation and implementation of nationality legislation, assistance to individuals in making their refugee claims, the training of government officials and staff, and the promotion of

cooperation between interested organizations. With a view to addressing the root causes of population displacement, UNHCR was involved in education for peace, human rights education and conflict resolution through the implementation of a number of activities and projects. UNHCR was also placing emphasis on facilitating voluntary repatriation, developing early warning systems and promoting local capacity to mitigate conditions which forced people to flee.

54. The observer for the United Nations Children's Fund (UNICEF) represented the UNICEF regional office for Central and Eastern Europe, the Commonwealth of Independent States and the Baltic States. In all those countries, UNICEF actively promoted the Convention on the Rights of the Child - its implementation through legislation and specific programmes, and public awareness of the Convention through schools and the media. Specific reference was made to activities to assess the situation of children of the Roma minority in public care aiming at improving the type and quality of care, promoting early childhood development through parent education, and ensuring that the juvenile justice system affecting Roma children in particular conformed to the Convention on the Rights of the Child. Additional activities included studies on children and families of ethnic minorities, and the strengthening of cooperation in the area of tolerance education projects.

55. The observer for the World Health Organization (WHO) said that the Organization addressed the key human rights principles of equity, dignity, non-discrimination and universality. Preventable ill-health followed the fault lines of society when inequities and discrimination led to a disadvantaged health status of minorities and other groups. Health status data could therefore provide useful indicators of human rights abuses: the economic and social inequalities reflected in differential health indicators could be indicative of the denial of the human rights so vital for health and development. Integrating human rights standards in health and development could only strengthen the just and equitable access of all people to health services and health care. One of the major goals of WHO was therefore to address the health needs of the under served and those who were already vulnerable to discrimination, such as minorities.

56. The discussion with the representatives of the specialized agencies focused on: the need to encourage support systems at community level for the implementation of agency policies and programmes; the distinction between and possible different aspirations of indigenous peoples and minorities; the issue of statelessness; and the particular needs of specific groups such as Roma children and Kurdish refugees.

III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS

57. During the session, a number of solutions for better protecting minority rights and safeguarding and developing their identity and characteristics were discussed.

58. Mr. Ortalli referred to the example of South Tyrol which had been successful in addressing problems of minorities. This small province in northern Italy, which was part of Austria until the end of the Second World War, now enjoyed widespread autonomy, with guarantees for the protection of the rights of the German- and Ladin-speaking minorities such as primary and secondary education in the mother tongue. Mr. Chernal drew the attention of the Working Group to autonomy arrangements as a possible solution to conflicts in Central Europe and the Balkans. Autonomy, he said, provided a means of power sharing between the majority and the minority. He made specific reference to territorial autonomy and personal autonomy, the latter including full respect of the rights of minorities, and explained that any autonomy regime should fulfil two essential criteria, namely, political participation and limits on the exercise of power to avoid abuse.

Examination of the causes and nature of the problems affecting minorities and group accommodation and their possible solutions, including the legacies of the slave trade for the Black communities throughout the Americas

59. The observer for N'COBRA - The National Coalition of Blacks for Reparations in America said that people of African ancestry residing in the United States were experiencing hate as a result of the trans-Atlantic slave trade. The observer for the International Association against Torture stated that the trans-Atlantic slave trade had caused the displacement and deculturalization of millions of people. The observer for the African Americans in the United States of America specified that the lingering effects of plantation slavery had resulted in the disappearance of the original language, religion and culture, and that African Americans were still dying from the torment of the past owing to genetic alteration. The observer for Espacio Afroamericano highlighted the marginalization of and racial discrimination against the Black communities in Latin America as a result of the slave trade.

60. The above organizations recommended that a forum for African Americans be established at United Nations Headquarters and a new working group established in Geneva to study conditions throughout the Diaspora. They also recommended that a special rapporteur be appointed to investigate the continuing racial discrimination and a team of experts be constituted to prepare a report of present conditions. In addition, the observer for the Black Reparations Commission recommended the holding of an international conference on the trans-Atlantic slave trade and its aftermath and the victims' right to remedy and to seek United Nations intervention in the creation of national, regional and local political bodies to educate African American people on the principle of informed consent as it related to the political choices and options of a freed people. Additional recommendations included United Nations intervention to assist in the establishment of a national consultative assembly for African Americans in the United States of America and the establishment of a permanent committee on the inalienable rights of African American peoples which would report directly to the General Assembly, similar to the Committee on Palestinian rights.

IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

61. The observer for the Centre for Documentation and Information on Europe presented the working paper entitled "Database on minorities - feasibility study" (E/CN.4/Sub.2/AC.5/1999/WP.8). Reliable sources of information on minority situations were required for the Working Group to fulfil efficiently the mandate entrusted to it. In addition to being of use to the members of the Working Group, the database would benefit international and regional organizations addressing issues pertaining to minorities, decision makers, the media, the public, and minorities themselves. The observer for the Centre explained that the database would be composed of a list of addresses of organizations, academic institutes and centres working in the area of minority protection; a list of events, conferences and workshops; a bibliography of publications, periodicals and abstracts; and a description of each minority reflecting their sociological, cultural and political situation. The work would be shared between the Minority Rights Group, the European Centre for Minorities in Europe and the Centre for Documentation and Information on Minorities in Europe, with a view to including organizations and institutions in other regions so as to incorporate information on minorities from Africa, Asia and the Americas.

62. Mr. Kartashkin proposed that the database include information on the procedures of the treaty bodies and regional bodies relating to the protection of minorities. Ms. Odagawa suggested that three additional categories of information be included, that is: best practices (covering legislative, constitutional and other measures); institutional arrangements; and comparative jurisprudence. Mr. Eide mentioned that it was important for collaboration on the database to be strengthened with various institutions from different regions of the world. The observer for Hungary reminded the Working Group that a database on legal instruments had already been established by the Council of Europe and that it would be useful to draw on existing information.

V. THE FUTURE ROLE OF THE WORKING GROUP

63. The observer for the International Centre for Ethnic Studies presented the working paper entitled "The Future Role of the Working Group" (E/CN.4/Sub.2/AC.5/1999/WP.9). In a brief assessment of the Working Group, he noted the following: the Working Group should develop and promote integrated programmes and studies on thematic issues; the provision of technical assistance by agencies to resolve problems involving minorities could be strengthened with the Working Group acting as a focal point; there was a need to facilitate constructive dialogue between States and minorities with the members of the Working Group intervening to facilitate dialogue and, to this end, encourage a greater number of States to participate in its sessions; and the need for more effective follow-up between sessions with regard to regional activities to promote the practical realization of the Declaration.

64. In view of these observations, he suggested that participation by States be encouraged by requesting them to submit information on best practices on issues such as the implementation of the Declaration, successful structural

would be useful to concentrate on one or more specific topics at each session. The observers for Austria, Finland and Switzerland proposed that the Working Group be involved in the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and to this end, some time be devoted to this issue at the next session of the Working Group. The observer for the Minority Rights Group added that NGOs could submit concrete suggestions in time for the next session. The observer for Turkey expressed concern at the fact that no definition of minorities had been elaborated by the Working Group and the lack of a definition constituted an obstacle for further work.

68. Mr. Eide suggested that the International Centre for Ethnic Studies update its paper for next year and recalled that the Declaration remained the major focus of the Working Group in accordance with its mandate.

VI. OTHER MATTERS

69. A number of issues were raised concerning other matters of relevance to the work of the Working Group and the protection of minorities.

70. The observer for the Centre for International and Comparative Law mentioned that members of the Working Group and other participants might wish to consider whether there was scope for a further, more detailed study of specific issues such as separatist trends and pressures, standards for integration, principles of effective choice for individuals, and the principle of proportionality or balance for the representation of communal groups. This might involve the preparation of draft articles for inclusion in any future international convention or the development of more formal guidelines or recommendations for States to assist them in complying with their international commitments in this area.

VII. CONCLUSIONS AND RECOMMENDATIONS

General

71. The Working Group expressed its deep appreciation for the information and suggestions given by government observers and observers from intergovernmental organizations, representatives of non-governmental organizations, including minority groups, and scholars who attended the fifth session. The Working Group recognized that many in the two last categories had travelled to Geneva at great cost to participate in the session.

72. The Working Group expressed its gratitude to the European Centre for Minority Issues for convening a regional seminar on effective participation by members of minorities and for its working paper containing the recommendations of the seminar. It also expressed its gratitude to the International Centre for Ethnic Studies (Colombo) for the preparation of the working paper on the future role of the Working Group, which provided an important contribution to the work of the session. Furthermore, it thanked the three organizations that had prepared the feasibility study on the establishment of a database on minority issues.

73. The Working Group noted with grave concern the violation of rights of minorities in various parts of the world and expressed its firm conviction that all issues relating to minorities should be solved by peaceful means at the national and international levels. The threat or use of force in contravention of the provisions of the Charter of the United Nations was a violation of the general principles and norms of international law and threatened international peace and security.

Promotion and practical realization of the Declaration

74. The Working Group had recommended at its third session that a manual be prepared in, inter alia, minority languages to include (a) the text of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; (b) an explanatory note setting out and interpreting the principles contained in the Declaration; (c) procedures and mechanisms by which members of minorities could address regional and international organizations with their concerns.

75. The first step in the preparation of such a manual was the preparation of an explanatory note or commentary setting out and interpreting the principles contained in the Declaration. At its third session, Mr. Eide was entrusted with the task of preparing a draft commentary, which was presented and discussed at its fourth session (E/CN.4/Sub.2/AC.5/1998/WP.1). Expressing its satisfaction with the work done so far, the Working Group decided to submit the draft to Governments, agencies and non-governmental organizations for comments. A compilation of the observations to the commentary made in response to that request was submitted to the fifth session (E/CN.4/Sub.2/AC.5/1999/WP.1). Further suggestions and observations were made during the fifth session by members, Governments and non-governmental organizations.

76. The Working Group at its fifth session therefore decided to ask Mr. Eide to prepare a revised version of the Commentary, taking into account the working papers presented and comments made, and annexing to the draft a compilation of the observations made. The revised version would be submitted to the Sub-Commission at its fifty-first session and Mr. Eide was requested to submit the final draft to the Working Group at its sixth session for discussion and adoption.

77. The next task envisaged by the Working Group was the preparation of an overview of mechanisms and procedures by which members of minorities could address regional and international organizations with their concerns. At its fourth session, the Working Group had entrusted Mr. Kartashkin with the task of preparing a working paper on universal and regional mechanisms for minority protection. That paper (E/CN.4/Sub.2/AC.5/1999/WP.6) was received with satisfaction by the Working Group. It contained several recommendations, one of which was to collect information on special procedures and treaty organs, both worldwide and regional.

78. Following the discussion, it was recommended that an overview of such procedures and mechanisms be prepared by Mr. Kartashkin based on background material compiled by the secretariat, to be submitted at the sixth session of the Working Group with a view to its inclusion in the envisaged manual.

together with the Commentary. The more detailed information about the activities of regional and worldwide organizations and bodies should be included in a database as set out below.

Examination of possible solutions, including the promotion of understanding

79. The Working Group underlines that the implementation of minority rights should serve the following purposes: to ensure equality between all individuals and minorities in society; to contribute to the enjoyment of all human rights by all members in society; to guarantee access to resources on a basis of equality; to integrate all minorities as an essential component of peaceful, democratic and pluralist societies and to ensure harmony and stability within States and between States, in particular with kin States.

80. The core issues in the promotion of minority rights and the preservation of their identity were language and education policies, the protection of religious freedom, and their effective participation in social, economic, cultural and political life. The Working Group had addressed language and education policies in previous sessions and referred to The Hague Recommendations regarding the Education Rights of National Minorities and the Oslo recommendations regarding the Linguistic Rights of National Minorities as useful points of rererence for these issues.

81. At its fifth session, the Working Group dealt at great length with the questions of effective participation by minorities. It based the discussion on two working papers: one on the question of citizenship and minority rights, prepared by Mr. Eide (E/CN.4/Sub.2/AC.5/1999/WP.3) and the other (E/CN.4/Sub.2/AC.5/1999/WP.4) on the recommendations of the regional seminar on effective participation organized by the European Centre for Minority Issues in Flensburg.

82. With reference to the recommendations contained in document E/CN.4/Sub.2/AC.5/1999/WP.4, the Working Group highlighted the following points:

(a) Effective participation, as provided for in article 2.2 and 2.3 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, can provide channels for consultation between and among minorities and Governments, serving as means of resolving disputes while sustaining diversity and contributing to the stability of society;

(b) Minorities should be involved at the local, national and international levels in the formulation, adoption, implementation and monitoring of standards and policies affecting them;

(c) The different types of minority groups and their various needs and aspirations (e.g. dispersed versus compactly settled groups; small minorities versus large minorities; ethnic versus religious minorities; old versus new minorities) require identification and the most appropriate ways to create conditions for their effective participation in each case adopted;

(d) Effective participation requires representation in legislative, administrative and advisory bodies and, more generally, in public life. States should also establish advisory or consultative bodies involving minorities within appropriate institutional frameworks. Such bodies, or round tables, should be attributed political weight and consulted on issues affecting the minority population;

(e) There should be equal access to public sector employment across the various ethnic, linguistic and religious communities;

(f) Citizenship remains an important condition for full and effective participation. Barriers to the acquisition of citizenship for members of minorities should be reduced. Forms of participation by resident non-citizens should also be developed, including local voting rights after a certain period of residence and inclusion of elected non-citizen observers in municipal, regional and national legislative and decision-making assemblies;

(g) Decentralization of powers based on the principle of subsidiarity, whether called self-government or devolved power, and whether the arrangements are symmetrical or asymmetrical, would increase the chances of minorities to participate in the exercise of authority over matters affecting themselves and the entire societies in which they live;

(h) Public institutions should not be based on the basis of ethnic or religious criteria. Governments at local, regional and national levels should recognize the role of multiple identities in contributing to open communities and in establishing useful distinctions between public institutional structures and cultural identities;

(i) There are several other conditions for effective participation, including appropriate language policies, multicultural and intercultural education in line with the requirements of the Convention on the Rights of the Child, and appropriate media policies. These issues have been examined at past sessions of the Working Group, but will need further examination at future sessions.

83. Questions relating to multicultural and intercultural education are of pivotal importance. They were addressed at a seminar held by the Working Group in collaboration with International Service for Human Rights and the Minority Rights Group in 1997. They were also the subject of the working paper prepared for the fifth session by Mr. Mehedi, who concluded that such education must have two facets: on the one hand, preservation of collective identity accompanied by acceptance of diversity as an asset and, on the other hand, universal education leading to understanding and tolerance. Those issues will be further examined at a seminar which the Working Group agreed to at its fourth session and which it was planned to hold in Canada at the end of September 1999.

84. Non-governmental organizations and minority representatives presented information on a number of situations where, in their opinion, the standards contained in the Declaration were not adequately implemented and where, in some cases, serious violations allegedly had taken place. Information about those cases is given in the body of this report.

85. At the request of the Sub-Commission, the Working Group decided to address the special case of the legacy of plantation slavery and the situation of the African Americans generally in the different parts of the Americas. The information presented and the recommendations proposed by the relevant minority organizations are contained in the body of this report.

86. The Working Group noted that some of the issues brought by these organizations related to the measures required to ensure the full elimination of all forms of racial discrimination and therefore also belonged under the mandate of the Committee on the Elimination of Racial Discrimination (CERD). The Working Group recommends, in this connection, that the relevant States consider the possibility of making the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, thereby allowing CERD to consider communications from individuals or groups of individuals under their jurisdiction. Nevertheless, insofar as it is a question of advancing understanding between these minority groups and the Government, the matter falls under the competence of the Working Group. The information will therefore be submitted to the relevant Governments to give them an opportunity to provide additional information if they so wish.

87. The Working Group examined, under agenda item 3 (b), situations of forcible displacement and the return of persons who had been forcefully displaced in the past. The Working Group noted that this matter is being dealt with both by UNHCR in cooperation with the CIS countries, and by the High Commissioner on National Minorities of the OSCE.

88. A related question was also brought to the attention of the Working Group: forcible settlement of nomadic groups. This was a problem affecting several countries, particularly in Africa and Asia. The Working Group noted that while there might in some cases be overriding public policy needs to enforce the settlement of such groups, adequate precaution should be taken to ensure that this was done in proper consultation with such groups and that conditions be maintained as far as possible for them to preserve their ways of life.

<u>The development of the dialogue for mutual understanding</u>

89. The further evolution of the dialogue required to promote understanding between and among minorities and Governments required more active participation by Governments in the process. Several ways to advance such participation were discussed. One was to organize regional seminars where minorities and Governments could be present, a proposal which would have to be further explored at a later stage or be left to local initiatives.

90. To advance the dialogue, the Working Group at its fourth session initiated the practice of submitting the information presented at its sessions by non-governmental organizations and minority representatives to the Governments concerned, to inform them of the issues raised and giving them an opportunity to provide additional information, should they so wish. This was done with reference to article 6 of the Declaration which states that: "States should cooperate on questions relating to persons belonging to

minorities, inter alia, exchanging of information and experiences, in order to promote mutual understanding and confidence". Some responses were received but too late for distribution at its fifth session. The Working Group decided to continue this practice and to ensure that the information was transmitted to the relevant Governments early enough for them to respond in time before the sixth session of the Working Group. The information should be submitted together with a brief statement by the Working Group of its mandate under the Declaration, and with reference to those articles of the Declaration which appeared to be relevant to the information presented by the organization concerned.

91. The Working Group also decided at the fifth session to reiterate its willingness to visit countries where minority issues exist, with a view to facilitating understanding between and among the minorities and the Government concerned. Such visits would, of course, be undertaken only at the invitation of the Government.

Further measures

92. The Working Group discussed at some length the proposal by Mr. Kartashkin that it should begin on a definition of the concept of "minority" which, rather than being all-encompassing and covering all criteria and characteristics, should be concise and acceptable to all States. This, he suggested, should be the first step towards the development of a worldwide convention on the protection of persons belonging to minorities.

93. The opinions on this subject were divided, both among the members and the observers. It was argued that there was little prospect of arriving at a definition, taking into account that it had been possible neither at the global nor at the regional level for the last 50 years. Leaving the question of definition aside, the possibility of drafting a convention could still be explored. Even though it was likely to be a long process, members of the Working Group, together with scholars in the field, might want to start informally drafting a possible text. One important purpose of preparing a convention was to create hard rather than soft law and, in particular, to have a more effective international mechanism for monitoring and responding to complaints. Whether such a mechanism would have greater powers than the Working Group would depend on the provisions of the convention. The Working Group consequently did not take any decision on this issue, but decided to pursue the matter further at its sixth session and to invite comments on the advisability of starting to draft a possible convention.

Future role of the Working Group

94. The Working Group discussed at some length the valuable working paper on its future role prepared by the International Centre for Ethnic Studies in Colombo (E/CN.4/Sub.2/AC.5/1999/WP.9) and expressed satisfaction with the informal evaluation contained in that paper. It decided to give attention to the rationalization of its work in regard both to thematic issues and the examination of particular cases. The items on the agenda should be clearer and better focused. Working papers should preferably be completed at an earlier stage and distributed to members and others interested well in advance

of the meeting. United Nations agencies should be asked to submit information on the steps taken by them to implement the Declaration. Such information should be reproduced as working papers for the Working Group.

95. The Working Group examined the feasibility study concerning the establishment of a database, initially containing three elements (a list of organizations and events, a bibliography of publications, and a description of minorities). It also examined the proposal, contained in the working paper by Mr. Kartashkin, for a database containing aggregate information on all the special procedures and treaty organs, both worldwide and regional, concerned with the protection of minorities. It decided to recommend that the three organizations which submitted the feasibility study should be encouraged to go ahead with the establishment of the envisaged database. Cooperation should be sought with the administrators of the Website of the Office of the High Commissioner for Human Rights and the United Nations Library in Geneva. They should also include in their database the information presented by Governments and by minority organizations at the sessions of the Working Group, including the responses provided by Governments to the information submitted to them. Furthermore, the database should include information on constitutional and legal frameworks for minority protection in the individual States as well as institutional arrangements made at the national level for that purpose, and on comparative jurisprudence related to minority rights.

96. With regard to the database proposed by Mr. Kartashkin, the Working Group decided to split the task in two, one short range and one long range. A brief overview of the procedures and mechanisms used by the different bodies should be prepared for the sixth session and included, together with the Commentary in the manual envisaged in the Working Group's earlier recommendation (see above).

97. As for the practice of the bodies, it was recommended as a follow-up to the suggestion by Mr. Kartashkin that systematic collection should be prepared and included in a database of the following elements:

(a) Continuously updated information of the activities of the treaty bodies insofar as minority issues are involved;

(b) Continuously updated information of the activities relating to minorities of the regional bodies (Council of Europe, OSCE, European Union, CIS, Organization of American States, Organization for African Unity and others as appropriate);

(c) Continuously updated information of the activities under the special procedures of the Commission on Human Rights insofar as minority issues are involved.

98. The establishment and maintenance of such a database would require considerable resources, both human and material. The Working Group therefore welcomed the offer by some of the scholars and institutes present at the meeting to join in the establishment and maintenance of such a database, and recommended to the Office of the High Commissioner for Human Rights to engage in collaboration with those centres to find practical ways to implement the proposal.

99. The Working Group intends to seek cooperation with and explore more fully the work of national commissions, councils or round tables dealing with minority issues and to examine other mechanisms of dispute settlement. A working paper on this subject was intended to be prepared for the fifth session. Unfortunately, Mr. Sorabjee, owing to other commitments, was not in a position to prepare the paper on conflict prevention. The Working Group recommended that it be prepared for the sixth session, if possible by Mr. Sorabjee in cooperation with the secretariat.

100. The Working Group recognized that it had much more information on minority situations in Europe than elsewhere, and also that many of the thematic recommendations elaborated (The Hague and Oslo recommendations, the Flensburg recommendations) drew primarily on experiences in Europe. To make its activities truly universal in scope, the Working Group should encourage the holding of regional seminars, particularly in Africa, Asia and Latin America and the Caribbean.

101. The Working Group recommended that the Office of the High Commissioner organize a seminar for representatives of global and regional organs, treaty bodies and specialized agencies, to discuss issues connected with their respective work on the protection of minorities, improve coordination so as to reduce duplication and parallel activities, exchange information and seek ways of better protecting the rights of persons belonging to minorities.

Other matters

102. The Working Group recommended that its secretariat should be strengthened and that use should be made of interns to assist the secretariat in that respect. It also recommended to the Office of the High Commissioner for Human Rights that every possible effort be made to include in the biennial budget the activities recommended to promote and protect the rights of minorities so as to secure the availability of resources required to implement such activities.

103. The Working Group further recommended that the High Commissioner, as provided for in Commission resolution 1999/48, paragraph 14, call on Governments and other donors to provide voluntary contributions, with a view in particular to facilitating participation by under-represented minority groups in the activities of the Working Group. Efforts should also be made to increase the participation by government observers. This could include briefings about the activities of the Working Group to the five regional groups. Regional organizations should also be encouraged to attend the meetings of the Working Group.

104. The Working Group took note of the progress in the implementation of its decision, made in 1998, that a seminar should be convened in Canada on multicultural and intercultural education. The seminar would be held at the end of September 1999, and the Working Group expressed its satisfaction to Mr. Mehedi for his efforts to implement the decision.

105. The Working Group recommended that the Commentary to the Declaration and the observations thereon, the working paper on citizenship and minorities, the working paper on effective participation, the working paper on multicultural

and intercultural education, the working paper on universal and regional mechanisms for minority protection and the working paper on the future role of the working group be made available to the Sub-Commission together with the report of the Working Group on its fifth session. That would facilitate comments by members of the Sub-Commission which could be taken into account in the future work of the Working Group.

Rationalization of the agenda

106. The Working Group discussed the rationalization of its agenda in regard both to country situations and thematic issues. The recommendations contained in working paper 9 and suggestions made by members and observers were taken into account. For the sixth session, the thematic issues would be as follows: (a) the completion of the work on the manual, including the final reading of the Commentary based on the draft by Mr. Eide, and the overview of regional and global procedures and mechanisms available to minorities, based on a working paper by Mr. Kartashkin; (b) questions relating to multicultural and intercultural education and language rights based on the seminar held in 1997, the seminar to be held in Canada in September 1999, and The Hague and Oslo recommendations on education and language rights respectively; (c) the media and minority issues based on the recommendations of the seminar held for the Working Group in 1998; (d) the question of the prevention and resolution of conflicts involving minorities based on the paper to be prepared by Mr. Sorabjee; and (e) the possible inputs to be made by the Working Group to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001, based on a working paper to be prepared by the Swiss Federal Commission against Racism. The progress in the establishment of databases would be examined in the light of a report to be prepared by the three cooperating institutions.

107. The dialogue on specific situations would be continued. Efforts would be made to make the dialogue more cumulative and to avoid a mere repetition of earlier years' discussions. The discussion of specific situations would draw also on the responses by States to the information arising from the fifth session which had been transmitted to them for comments and observations.

Annex

LIST OF DOCUMENTS BEFORE THE WORKING GROUP ON MINORITIES AT ITS FIFTH SESSION

Symbol	Title
E/CN.4/Sub.2/AC.5/1999/1	Draft provisional agenda
E/CN.4/Sub.2/AC.5/1999/1/Add.1	Annotations to the draft provisional agenda
E/CN.4/Sub.2/AC.5/1999/WP.1	Observations to the Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minority, prepared by the secretariat
E/CN.4/Sub.2/AC.5/1999/WP.3	Citizenship and the minority rights of non-citizens, prepared by Mr. Eide
E/CN.4/Sub.2/AC.5/1999/WP.4	Towards effective participation of minorities, prepared by the European Centre for Minority Issues
E/CN.4/Sub.2/AC.5/1999/WP.5	Multicultural and intercultural education and protection of minorities, prepared by Mr. Mehedi
E/CN.4/Sub.2/AC.5/1999/WP.6	Universal and regional mechanisms for minority protection, prepared by Mr. Kartashkin
E/CN.4/Sub.2/AC.5/1999/WP.8	Database on minorities - feasibility study, prepared by the Minority Rights Group, the Centre for Documentation and Information in Europe and the European Centre for Minority Issues
E/CN.4/Sub.2/AC.5/1999/WP.9	The future role of the Working Group, prepared by the International Centre for Ethnic Studies

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